

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3592 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair
copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge ?

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HANSABEN K PATEL & 4 - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR HJ NANAVATI for Petitioner(s) : 1 - 5.

MR SP HASURKAR, AGP. for respondent – State.

NOTICE SERVED BY DS for Respondent(s) : 2,

MR PS JOSHI for Respondent(s) : 3,

RULE SERVED for Respondent(s) : 4,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 07/07/2006

ORAL JUDGMENT

1 When this petition was filed the following prayers were made:

- “(a) Allow this Special C.A.,*
- (b) Declare that the action of the respondents in defeating the claims and rights of the petitioners being illegal and unconstitutional;*
- (c) Declare that the respondent-State and authorities are bound by constitutional obligation and obligation under Chapter IV of the Constitution to see that there should not be any abuse of process of law by any person so far as education of pupils/people are concerned;*
- (d) Direct the respondent authorities to enquire into the affairs of the school management and starting of new school in the name of Jayesh Primary School by the Mg. Trustee of the respondent school management and further direct them to submit a report before this Hon'ble Court;*
- (e) Direct the respondent-authorities not to permit the school management to close down and/or give permission for reduction and/or closure of the respondent school without seeking permission from this Hon'ble Court;*

7. INTERIM RELIEFS :

Pending admission hearing and final disposal of this petition, this Hon'ble Court be pleased to ::

(I) Issue an interim direction to place before the Hon'ble Court the necessary records pertaining to granting permission to start Jayesh Primary School in the same premises of the respondent school and further direct the authorities to take appropriate action against the respondent-school management for adopting the techniques and tactics to defeat the legitimate claims of the petitioners;

AND

(II) : Grant such other just and necessary reliefs as this Hon'ble Court may be pleased to deem fit and proper looking to the facts and circumstances of this Case”.

2 Mr.H.J.Nanavati, learned Advocate for the petitioner has stated that respondent No.3 – Primary School has already been closed down but the petitioners have not been paid their legitimate dues. He, therefore, submits that appropriate directions may be given to the respondent authorities to take necessary action qua respondent No.4, who is already running another institute named Global Primary School to ensure that the petitioners are not deprived of their legitimate dues.

3 Mr.Hasurkar, learned Assistant Government Pleader appearing on behalf of respondent Nos. 1 and 2 states under instructions that in the event the petitioners approach the authority with the aforesaid prayer, the authority shall take appropriate action in accordance with law.

4 In the circumstances, considering the prayers made at this juncture, no directions can be given to the respondent authorities. However, in case the petitioners move the appropriate authority, needless to state that the authority shall take appropriate action in accordance with law to ensure that the petitioners are not deprived of their legitimate dues merely because the School is closed down.

5 Subject to the aforesaid, the petition is rejected. Rule discharged. There shall be no order as to costs.

Sd/-
(D.A.MEHTA, J.)

m.m.bhatt